



EXHIBIT #1
DATE Jan 14th 2011
HB 70

2011 Legislative Session
House State Administration
January 14, 2011
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Montana Public Employees' Retirement Board

HB 70

Testimony before the House State Administration Committee
Supporting House Bill 70
January 14, 2011

House Bill 70 is the Public Employees' Retirement Board's biennial general revisions or "clean-up" bill. The proposed legislation was reviewed and accepted by the State Administration and Veterans' Affairs Interim Committee

Between each legislative session, the Public Employees' Retirement Board and its staff compile legislative changes needed to properly administer its eight retirement systems. We have been asked why there is a bill every year - aren't we ever going to "get it right?" But the retirement field is an ever changing area. We must continually update our statutes to remain consistent with federal law requirements, to address changes required by new technology, and to amend statutes that no longer fit with our changing society.

The table distributed to the Committee provides a section-by-section summary of the Board's proposed changes. Title 19 of the MCA groups legislation applicable to all Board-administered systems in Chapter 2. Chapters 3, 5, 6, 7, 9, 13, and 17 contain statutes applicable to a single system. For example, Title 19, chapter 3 pertains to the Public Employees' Retirement System (PERS) only, while chapter 5 addresses Judges (JRS) and chapter 8 pertains solely to Game Wardens' and Peace Officers (GWPOS). If the same change is required in multiple retirement systems, those sections are grouped together and addressed as one.

I will highlight some of the proposed changes the Board believes significant. If you have questions regarding these or any of the other proposed changes, I will be available for questions.

- **Bill Sections 1 and 2 (2-4-110 and 2-15-1009, MCA)** In addition to review by the Board, our management team, and other internal staff, the Department of Administration's chief legal counsel and rule personnel currently review our proposed rules prior to submission and prior to adoption. They now require a minimum of two weeks to conduct the review, which significantly complicates and slows our rule-making process. The Board has asked to eliminate their review and the Department of Administration has agreed. The Legislative Interim committee will still have ultimate say on whether our rules are appropriate.
- **Bill Section 4 (19-2-303(52), MCA) and Bill Section 21 (19-3-1106, MCA)** Consistent with Internal Revenue Service requirements, the Board requires that individuals wishing to retire have a minimum 30 day break in employment prior to retiring. We are seeing

and hearing of situations where the terminating employee has been assured of a job at the end of the 30 day period. Thus, the retiree will receive a retirement benefit and a salary shortly after retiring. The Board would like to verify that there is no agreement, prior to retirement, under which the employee will return after the 30 day period. IRS personnel and tax counsel have indicated that this requirement will help to ensure qualification of our plans for tax purposes.

In addition to requiring no agreement to return to work, the Board would also like for a retiree to be required to wait 90 days before considering a return to work in a position covered by the retiree's retirement system. This extended time period will help to ensure a valid break in service for IRS purposes.

- **Bill Section 5 (19-2-403(8), MCA)** Teachers' Retirement and the Public Employees' Retirement would like to compare information regarding its members to ensure employees are being reported to the proper system. Our Board believes much of the information needed may be considered confidential in nature. Examples of possible confidential information include social security numbers and birthdates, both of which are needed to ensure that our John Smith is the same John Smith reported to TRS. Therefore, we are seeking statutory authority to enter into a memorandum of understanding in order to share that information between the two systems for retirement related business only. A similar provision is contained with the Teachers' Retirement System's general revisions bill, HB 86.
- **Bill Section 10 (19-2-801(7), MCA)** Active and inactive members have beneficiaries who receive an account balance or death benefit if the member dies prior to retirement. Beneficiaries can renounce their right so someone else can receive the account balance or death benefit. For example, a member who is single when starting covered employment names his mother as a beneficiary then fails to change his beneficiary to his wife after marrying. If he dies, his mother can renounce her rights so the wife can receive the benefit.

Retirees who elect option 2 or 3 (joint life benefits) name a contingent annuitant to receive a retirement benefit after the member dies. The member's benefit is reduced to take the "second" life into account. This benefit generally cannot be changed and the contingent annuitant can't "give" their payment to someone else. Using the same example above, the mother couldn't renounce her payment as the wife's life expectancy would be significantly greater than the mother's. If the wife received the benefit calculated based on the mother's age, she would most likely receive the monthly benefit for a significantly longer period of time than the mother would have. The total paid benefit would be greater than actuarially assumed and the retirement system would lose money.

Recently, some contingent annuitants have requested to renounce their rights. The Board would like specific statutory authority preventing this practice.

- **Bill Section 12 (19-2-908 (4))** Employees who terminate employment do not have to immediately start receiving their retirement benefit. The Board is seeking to clarify that those who postpone receipt of their benefit are not entitled to the guaranteed annual benefit adjustment (GABA) they would have received had they received their benefit as

soon as eligible. GABA starts in January after the member has been receiving their benefit for a year.

- **Bill Sections 33 (19-8-601, MCA)** Chapter 8 statutes relate to the Game Wardens' and Peace Officers' Retirement section. Section 19-8-601 provides that members of the system are eligible for a full retirement when they have completed at least 20 years of membership service and reached the age of 50. Section 19-8-604, MCA is titled "Early retirement benefit" but provides for a reduced retirement benefit at age 55 for those who work more than 5 but less than 20 years. The Board recommends combining these two benefits in 19-8-601 and repealing 19-8-604.

The Public Employees' Retirement Board urges your favorable consideration of HB70.

Thank you.